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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,  
8 Plaintiff,

9 -vs-

10 ARMANDO GUZMAN,  
11 Defendant.

NO. CR-05-2128-WFN-1

ORDER

12  
13 A pretrial conference was held June 2, 2006. Pending before the Court was  
14 Defendant's Motion to Expedite (Ct. Rec. 131); and Motion to Continue the Pretrial  
15 Conference (Ct. Rec. 132). Defendant is represented by Richard Smith; Assistant United  
16 States Attorney James Hagarty represents the Government. Defense counsel seeks a  
17 continuance of the pretrial conference as well as a extension of time to file pretrial motions.  
18 The Government had no objection to the motions. The parties understood that a continuance  
19 of the pretrial conference and motions deadline would also necessitate a continuance of the  
20 trial date. Accordingly,

21 **IT IS ORDERED** that:

22 1. Defendant's Motion to Expedite, **Ct. Rec. 131**, is **GRANTED**. The Motion to  
23 Continue was considered on an expedited basis. **Defense counsel is reminded that motions**  
24 **to expedite should only be used in exceptional circumstances. In the majority of cases,**  
25 **motions to continue should be filed in a timely manner allowing the Court and counsel**  
26 **to adjust their schedules accordingly.**

1           2. Defendant's Motion to Continue Pretrial Conference, **Ct. Rec. 132**, is **GRANTED**.  
2 The suppression hearing of June 2, 2006 is **STRICKEN and RESET to July 13, 2006, at**  
3 **1:00 p.m., in Yakima**, Washington.

4           3. Defendant's Oral Motion to Continue Trial is **GRANTED**.

5           The Court finds that the ends of justice served by the granting of a continuance of  
6 the trial in this matter outweigh the best interests of the public and the Defendant in a speedy  
7 trial. A trial date of July 17, 2006 would unreasonably deny Defendant the opportunity to  
8 pursue his motions to suppress the wiretap evidence, taking into account the exercise of due  
9 diligence.

10          4. The trial date of July 17, 2006, is **STRICKEN and RESET to September 11,**  
11 **2006, at 1:00 p.m., in Yakima**, Washington.

12          5. All time from the trial date of July 17, 2006, to the new trial date of September 11,  
13 2006, is **EXCLUDED** for speedy trial calculations pursuant to 18 U.S.C. § 3161(h)(8)(A).  
14 The Defendant has signed a waiver of his speedy trial rights.

15          6. The final pretrial conference of July 17, 2006, is **STRICKEN and RESET to**  
16 **September 11, 2006, at 11:00 a.m., in Yakima**, Washington.

17          7. Trial briefs, motions in limine, requested voir dire, witness and exhibit lists, and  
18 a set of proposed **JOINT JURY INSTRUCTIONS** shall be filed and served on or before  
19 **August 28, 2006**.

20           Jury instructions should only address issues that are unique to this case, and shall  
21 include instructions regarding the elements of each claim, any necessary definitions and a  
22 proposed verdict form.

23           The Joint Proposed Jury Instructions shall include:

- 24           (a) The instructions on which the parties agree; and  
25           (b) Copies of instructions that are disputed (i.e., a copy of each party's proposed  
26 version of an instruction upon which they do not agree). All jury instructions from the most

1 current edition of the Ninth Circuit Manual of Model Jury Instructions may be proposed by  
2 number. The submission of the Joint Proposed Jury Instructions will satisfy the requirements  
3 of LR 51.1 (c).

4 On or before **August 28, 2006**, each party shall address any objections they have  
5 to instructions proposed by any other party in a memorandum. The parties shall identify the  
6 specific portion of any proposed instruction to which they object and shall elaborate the basis  
7 for the objection. Objections asserting that an instruction sets forth an incorrect statement of  
8 law shall describe the legal authority that supports this objection. Failure to file an objection  
9 and supporting argument may be construed as consent to the adoption of an instruction  
10 proposed by another party.

11 8. The additional suppression motion discussed by defense counsel on the record on  
12 June 2, 2006 shall be filed and served no later than **June 29, 2006**; Government's response  
13 shall be filed and served no later than **July 7, 2006**. **NO REPLY SHALL BE ALLOWED.**

14 9. Defendant's Second and Third Motions for Discovery, **Ct. Recs. 81 and 90**, are  
15 **DENIED AS MOOT**

16 10. The Defendant's Motion to File Additional Pretrial Motions, **Ct. Rec. 85**, is  
17 **DENIED** subject to paragraph 8 above. **Counsel are advised that there shall be no further**  
18 **extensions of the pretrial motions deadline.**

19 11. Defendant's oral motion for 404(b) evidence is **GRANTED**. The Government  
20 shall turn over all 404(b) evidence no later than three weeks before trial.

21 12. The Court **RESERVES RULING** on Defendant's Motion to Sever (Ct. Rec. 93);  
22 Motion to Suppress Statements (Ct. Rec. 95); and Motion to Suppress Physical Evidence and  
23 Statements (Ct. Rec. 97) until the hearing on **July 13, 2006**.

24 The District Court Executive is directed to file this Order and provide copies to  
25 counsel.

s / Wm. Fremming Nielsen  
WM. FREMMING NIELSEN  
SENIOR UNITED STATES DISTRICT JUDGE